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| <b>Reference Number:</b>      | <b>400-02-DD</b>   |
| <b>Title of Document:</b>     | <b>Consultation, Private Practice or<br/>Employment by Employees of the<br/>Department of Disabilities &amp; Special<br/>Needs</b> |
| <b>Date of Issue:</b>         | <b>May 28, 1987</b>  |
| <b>Effective Date:</b>        | <b>May 28, 1987</b>  |
| <b>Last Review Date:</b>      | <b>May 1, 2006 (No Revision)</b>   |
| <b>Date of Last Revision:</b> | <b>September 1, 1996</b>   |
| <b>Applicability:</b>         | <b>All DDSN State Employees</b>  |

The language used in this policy does not create an employment contract between the employee and the Department of Disabilities and Special Needs (SCDDSN). **SCDDSN reserves the right to change the contents of this policy in whole or in part.**

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### **Purpose and Intent**

The purpose of this directive is to establish guidelines under which employees of the South Carolina Department of Disabilities and Special Needs may engage in private practice, employment or provide consulting services. It is intended that these guidelines be consistent with the State Ethics Commission's guidelines and interpretation, the State Dual Employment policies and any other state regulation governing the conduct of private business by state employees.

### **Private Practice or Employment**

Authority to engage in private practice or employment may be authorized by District Directors/Facility Administrators for personnel assigned to their Regions and by the State Director or his designee for all other personnel consistent with the following restrictions:

1. Departmental facilities, equipment or materials may not be used by an individual engaged in private practice or employment.
2. Work or services performed by a full-time employee must not be the same as the services that the client has requested or requires and which should be performed by the employee in the normal course of the employee's departmental duties.
3. Private practice or employment will not be engaged in during the normal duty hours of the employee nor at such other times as would interfere in any manner with the normally assigned duties of the employee.
4. Employees of the department shall not engage in private practice or employment with DDSN provider organizations without prior approval of the District Director/Facility Administrator.

### **Consultation With Private Sector Businesses and Organizations**

Consultation with private sector businesses or organizations shall be subject to the same guidelines as stated in the Private Practice or Employment Section above and is subject to ethical interpretation of the State Ethics Commission.

### **DDSN Consultation To Potential New Private Residential Providers**

Based on private sector interest in providing residential services to individuals with mental retardation or related disabilities, Central Office staff may provide general information and consultation to interested parties for the purpose of assisting potential providers to determine the feasibility of delivering residential services. Such consultation and information activities shall be without remuneration. Provided, however, that no consultation or informational activity shall imply DDSN use of the contemplated facility prior to its specific approval by the Commission.

### **Consultation or Employment With Another Agency Of SC State Government**

Employment or consultation with another state agency requires the approval of the State Director of Disabilities and Special Needs or his designee and is subject to the provision of the State Dual Employment Policies and Procedures.

### **Major Considerations of the State Ethics Code**

Employees of the South Carolina Department of Disabilities and Special Needs are subject to the provisions of the State Ethics Law. Some of the major provisions and interpretations of the Code of Conduct are covered in this Administrative Directive; however, these are not all inclusive and future interpretations by the State Ethics Commission will apply to departmental employees.

Some major State and DDSN ethical considerations are as follows:

#### **DDSN Employees Are Prohibited From Accepting:**

1. lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value, including an honorarium, from a lobbyist;
2. lodging, transportation, entertainment, food, meals, beverages, money or any other thing of value as well as an invitation to a function paid by a lobbyist principal unless: (1) the entire membership of the agency's board or commission is invited; or (2) all statewide constitutional officers are invited if they are employees of a statewide constitutional office. Exception: if the function is directly related to economic development or requires prior approval by the Governor for attendance;
3. anything of value to influence official actions;
4. anything of value, including an honorarium, for speaking in an official capacity before public or private groups. Official capacity, for the purposes of the Ethics Reform Act means - those duties which: (1) arise because of the position held by the employee; (2) involve matters which fall within the responsibility of the agency or employee; and (3) are services the agency would normally provide and for which the employee would be subject to expense reimbursement by the employee's agency. Official capacity also means those duties that are attached to a public office

or employment by the Constitution, statutes, executive order, promulgated rules and regulations, published job description or agency directive. A meal may be accepted at a meal function where the meal is incidental to the speech and is served to all other persons attending or participating in the same event. A small promotional item of less than \$10 in value or educational material of nominal value may be accepted; and

5. anything of value from a person who has or is seeking a contractual, business, or financial relationship with any organizational element of the Department of Disabilities and Special Needs. A small promotional item of less than \$5 in value may be accepted not to exceed \$10 in the aggregate in a calendar year.

**DDSN Employees May Not:**

1. solicit additional money for the conduct of their position responsibilities;
2. use information which is confidential or not available to the public for personal benefit;
3. be employed by a regulatory agency that regulates a business they are associated with if there is a frequent or continuing conflict. The employee must file a Statement of Economic Interests even if there is no conflict;
4. represent clients before state agencies unless such representation is part of the employee's position responsibilities;
5. cause the employment, appointment, promotion, transfer, advancement or participate in disciplinary action of a spouse, child, parent, brother, sister, grandparent, grandchild, mother or father-in-law, son or daughter-in-law;
6. serve as a lobbyist on a particular matter for one year before the agency they formerly served if they participated personally and substantially in the particular matter;
7. accept employment for one year from a regulated person if the employee was directly and substantially involved in the regulatory process;
8. resign from a position directly involved in the procurement process and accept employment with a person contracting with the agency if the employee had any responsibility for such procurement;
9. use government time, materials, personnel or equipment either for private purposes or in an election campaign, except for incidental use when there is no additional public expense;
10. have an interest in a contract if the employee has authority to write specifications, accept and evaluate bids or award the contract;
11. solicit contributions from subordinates or make employment decisions based on contributions; or
12. be associated with a business employed on a retainer by a lobbyist or lobbyist principal.

**DDSN Employees May:**

1. attend functions sponsored by a professional organization of which they may be a member and receive those benefits received by all other members of such association; or
2. engage in off-duty employment if: (1) done on the employee's own time; (2) no public materials or equipment is utilized unless of an incidental nature and at no additional public expense; (3) the public position is not used to obtain or continue the employment; and (4) the employment does not interfere with the needs of the agency.

**DDSN Employees Who File A Statement Of Economic Interests Must Report:**

1. anything of value received from a lobbyist principal; and
2. anything of value worth \$25 or more in a day or \$200 in the aggregate in a calendar year from:
  - (a) a person who would not give the item except for the employee's position;
  - (b) a person seeking a contractual, business, or financial relationship with the employee's agency; or
  - (c) a person whose operations or activities are subject to regulation by the employee's agency

**Recusal**

A DDSN employee who is required to take action on a matter which will have an economic impact of \$50 or more on his interests, or those of a member of his immediate family, or a business with which he is associated must:

1. provide a written statement to his superior, supervisor, etc., describing the conflict; and
2. not participate in deliberations, votes, or other action on the matter. The State Ethics Commission advises that the person leave the meeting location during agency action.

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(Originator)

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Stanley J. Butkus, Ph.D.  
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(Approved)